

**WAUKESHA COUNTY
MINUTES OF THE PARK AND PLANNING COMMISSION
ADMINISTRATION CENTER ROOM AC 230
THURSDAY, JANUARY 21, 2010 1:00 P.M.**

CALL TO ORDER

Bill Mitchell, Chairperson, called the meeting to order at 1:00 p.m.

Commission

Members Present:	Bill Mitchell	Bob Peregrine	Jim Siepmann	Gary Goodchild
	Walter Kolb	Pat Haukohl	Bonnie Morris	

Commission

Members Absent: None

Staff

Members Present: Richard L. Mace, Planning and Zoning Manager
Duane Grimm, Parks Manager
Perry Lindquist, Land Resources Manager
Elfriede Sprague, Clerk III

Guests Present:	Benjamin Bast	CU-1518
	Steve Traudt	SCU-1508 and PO-09-DELT-1
	Anita Rodriguez	SCU-1508 and PO-09-DELT-1
	Russ Evans	
	Jim Gutzweiller	SZT-1692

CORRESPONDENCE:

Memo from the Town of Delafield Plan Commission regarding the Lapham Peak Snowmaking Operation.

After discussion, Mr. Siepmann moved, seconded by Mr. Kolb and carried unanimously to reconsider the action of the December 10, 2009 Park and Planning Commission regarding the above to be set for a date, to be determined, agreeable to the Town, County and DNR.

Letter from Alan Barrows, Land Resources Division, addressing Mr. Peregrine's concern of flooding on Pennsylvania Ave. in the Town of Oconomowoc. (Letter sent to Commission previously)

MINUTES: Approval of the November 19, and December 10, 2009, Minutes

Mrs. Morris moved, seconded by Mr. Siepmann and carried unanimously for approval of the November 19, 2009, Minutes.

Mr. Kolb moved, seconded by Mr. Siepmann and carried unanimously for approval of the December 10, 2009, Minutes.

PUBLIC COMMENT

Chairperson Mitchell asked if anyone from the audience wished to address the Commission? With no public comment, he moved to the next item on the agenda.

• **Designation of Agricultural Enterprise Areas in Waukesha County by Richard L. Mace, Planning and Zoning Division Manager and Perry Lindquist, Land Resources Manager**

Mr. Lindquist gave a power point presentation outlining the Farmland Preservation Program modifications related to Agricultural Enterprise areas put forth by the Working Lands Initiative in the 2009-2011 state biennial budget. The initiative allows farmers to enter into a 15-year agreement to protect their lands in Agricultural Preservation, and in return receive a per acre tax credit. The state program was established to replace the old farmland preservation program by giving farmers incentive to keep prime agricultural lands. If

an agricultural enterprise zone is established, farmers within the zone can enter the agreement voluntarily. The County Board is considering a resolution to allow the Staff to designate applications for agricultural enterprise areas in Waukesha County. He added more information regarding the program can be found at www.datcp.state.wi.us/workinglands.

- **2010 Park System Update by Duane Grimm, Park System Manager**

Mr. Grimm outlined the park system acquisitions for this last year including additions to Monches Park, Menomonee Park and the Fox and Pewaukee River Greenway projects. The opening of the Nashotah Dog Exercise area was very well received by the public and annual park sticker revenues have increased. Last year approximately 4,624 volunteer hours were logged with over 1,400 volunteers. The volunteer program has been highly successful and the volunteers have been able to undertake many additional projects to help maintain and improve the parks. Projects slated for 2010 include improvements to the Retzer maintenance building, three new restroom buildings at Muskego Park, and paving of the Lake Country Trail. Monies from the Energy Efficient Block Grant will be used for the installation of geothermal heating and cooling at Retzer Nature Center, energy reduction at NagaWaukee and Eble Ice Arenas and the upgrading County facilities exterior lights with LED fixtures.

- **SZT-1692 (Stonebank Properties, LLC – A.K.A. Mr. Dee's) Town of Merton, Section 19 (B-2 Local Business District to the B-3 General Business District)**

Mr. Mace presented the "Staff Report and Recommendation" dated January 21, 2010, and made a part of these Minutes. He pointed out the location of the property at N67 W33499 C.T.H. "K" in part of the SW ¼ of Section 19, Town of Merton on the aerial photograph.

Mrs. Haukohl asked if it would be better to zone down to a B-2 zoning district with a Conditional Use or to zone up to the B-3 district with a restriction? Mr. Mace replied the Ordinance does not allow a more intensive use in a more restrictive category. If approved, the petitioner will only be limited to the uses requested and enumerated in the amendment. If the petitioner would wish to use the property for another purpose, he would need to reapply to the Town and County for rezoning approval. Supervisor Morris asked that when looking at a zoning map, how do you identify properties that have conditions attached to them. Mr. Mace replied there is an asterisk after the zoning designation on the map, which relates to a specific file. The file would have to be pulled to identify the restriction.

Mr. Gutzweiller, petitioner, commented he is looking for a Conditional B-3 zoning, limiting what the property can be used for. They are only asking for cold storage and added value seafood products. The special event would be to hold a seafood sale during the holidays for the local community. Mrs. Morris asked if the value added seafood needs approval from Environmental Health. Mr. Gutzweiller replied it needs to be licensed by the State. He explained that when they bought the property, he believed the former Conditional Use Permit would transfer. However, the permit was never issued and the use was discontinued as the property had been vacated for over 12 months. Mr. Mace added cold storage warehouses and distributors are not permitted uses in the B-2 Zoning District, therefore, since the use had been discontinued for a number of years, all rights to the previous legal non-conforming status had been lost and conditional use status could not be considered. However, said uses are allowed in the B-3 General Business District. Mr. Mitchell questioned whether conditions regarding hours of operation, special event conditions, etc. should be on the rezone. Mr. Mace replied they would be addressed during the Site Plan/Plan of Operation process.

After discussion, Mrs. Haukohl moved, seconded by Mrs. Morris, and carried unanimously for approval, as conditioned, in accordance with the "Staff Report and Recommendation". The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.

- **SCU-1508 (Prairie Hill Waldorf School) Town of Delafield, Section 23**

Mr. Mace presented the “Staff Report and Recommendation” dated January 21, 2010, and made a part of these Minutes. He pointed out the location of the property at N14 W29143 Silvernail Road in part of the SE ¼ of Section 23, Town of Delafield on the aerial photograph. He stated the petitioner is requesting a Conditional Use Permit for the operation of the existing school including several modifications to the existing use.

Mr. Mace explained this will be the first time that the County will be reviewing the operation as the property was recently added to the jurisdiction of the Waukesha County Shoreland and Floodland Protection Ordinance, through identification of the adjacent stream being navigable. The school currently operates under a Town of Delafield Conditional Use Permit. The petitioner is proposing to modify some previously imposed conditions of the current Conditional Use Permit. The application also includes a request for the installation of a windmill to provide power to heat and light an existing chicken coop on the property. The windmill was denied by the Town; therefore the County cannot approve it.

Mrs. Haukohl questioned Condition H stating, “The proposed concrete play area shall not be installed unless documentation is provided to the Planning and Zoning Division staff that the Town of Delafield has revised their previous denial and approved said concrete play area”. Mr. Mace replied it was added so that if the Town does approve the play area at a later date, the petitioner will not have to return to the Park and Planning Commission for approval. Mr. Traudt, school liaison and parent, stated the surveyor omitted the word “concrete” for the play area on the original survey and the Town has concerns regarding green space calculations. Before they approve it, they would like to see an updated survey. Mr. Mace asked Mr. Traudt if he had any questions or concerns about any of the conditions of the Staff Report and Recommendation. He replied he did not and felt the report was written well.

After discussion, Mr. Siepmann moved, seconded by Mr. Goodchild, and carried unanimously for approval, as conditioned, with denial of the windmill and play area, in accordance with the “Staff Report and Recommendation”. The approval of this request will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.

- **PO-09-DELT-1 (Prairie Hill Waldorf School) Town of Delafield, Section 23**

Mr. Mace presented the “Staff Report and Recommendation” dated January 21, 2010, and made a part of these Minutes. He stated the request is related to the previous Conditional Use SCU-1508.

After discussion, Mrs. Morris moved, seconded by Mrs. Haukohl, and carried unanimously for approval, as conditioned, with denial of the windmill and play area, in accordance with the “Staff Report and Recommendation”. The approval of this request will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.

- **CU-1518 (Benjamin and Jennifer Bast) Town of Oconomowoc, Section 23**

Mr. Mace presented the “Staff Report and Recommendation” dated January 21, 2010, and made a part of these Minutes. He pointed out the location of the property at W350 N6763 Baltic Pass in the SE ¼ of Section 23, Town of Oconomowoc on the aerial photograph. He stated the petitioner is requesting approval of after-the-fact land altering activities to construct landscape berm, retaining walls, a fire pit and patio.

Mr. Mace explained that the Town approved Mr. Bast’s request, however the County does not agree with the decision and is recommending denial of the improvements in the drainage easement area. This area is designated as a drainage easement on the plat and no improvements are allowed to be constructed in such an easement. There is the possibility that the size of the easement may have been oversized on the plat, but as long as it is there, no construction should be allowed. He added that unless an engineering study is performed indicating the drainage easement is not appropriate as mapped; the County has an issue with any improvements within such an easement.

Mr. Peregrine explained the Town Plan Commission felt the drainage area was overstated on the plat as this is all level land and the area does not receive a lot of runoff. The Town Engineer's report, recommending denial of the request, dwelt more on precedence establishment rather than drainage issues. The Town Plan Commission felt the northern most berm on the east side of the lot should be removed because that could retard the flow of water, however they didn't feel there was a problem with the improvements, so the Plan Commission approved the request with the provision that in the event there was ever a problem, the petitioner would have to remove the improvements at his expense. The petitioner indicated he is aware of the condition and the Plan Commission felt there was no reason to make him remove what was already in place.

Mr. Mace said that may be true, however improvements in a recorded drainage easement are not allowed and this would set a bad precedence in the future. There is a process to change or remove an easement. An engineer, other than Mr. Bast, would need to study the easement to determine the proper placement or possibly even its removal. At that time, an Affidavit of Correction would need to be recorded in the Register of Deeds office noting the change on the plat. He would then be able to proceed as requested. Discussion continued as to whether it would be more appropriate to table the request to allow time for a study to be done, rather than have the petitioner remove the berm to learn later that it may have been allowed. Mr. Bast was asked if he understood what was being discussed. He replied he is willing to do whatever is asked, remove it if it becomes a problem, pay for any reviews, etc. He explained the fire pit was there when he bought the property 3 years ago. He became sick of standing in the mud and built a brick paver patio. He didn't know that bricks in the ground or a retaining wall were structures. The Town Engineer's assumptions were based on the original 1992 grading. Per the 1990 topography map, the lot was not a retention basin or a kettle, as stated by the Town Engineer. Because the subdivision does not have an Architectural Control Committee, there have been improvements made to the subdivision and the original drainage has not been maintained. The water is contained in the road right of way to the north of the landscape berm that was built in 1994 with the house. He understands that if the road needs to be widened the berms may be in the way and would have to be removed. During the 2008 flooding there were no problems. He would like it to be known he didn't do the landscaping just because he felt he could do whatever he wanted without any considerations. He is willing to record a Declaration of Restrictions stating that all improvement within the drainage easement shall be removed from the property if a drainage issue occurs.

Mr. Goodchild pointed out that per the plat; there is a recorded drainage easement that took into account the drainage of the surrounding area. Looking at the topographical maps, it appears the drainage easement may not need to be as large as it is platted. However, as a property owner, it would be more valuable to make improvements if the easement line is amended on the plat by filing an Affidavit of Correction. Then the improvements/structure would be fine. It is not appropriate to leave the easement where it is and then say the improvements will be removed when it floods, as a large portion of the improvements are in the drainage easement. Mr. Mace stated he is not disputing whether there is a water problem along this stretch of C.T.H. "K" or not, however it needs to be reviewed by an Engineer, whether it be the Town Engineer or a private contractor, and an analysis made it determine if the easement is needed or whether it can be eliminated or moved. If it can be modified or removed, then the proper procedures need to be followed to amend the Plat.

After discussion, Mrs. Haukohl moved, seconded by Mr. Peregrine and carried unanimously to table the matter in consideration of the petitioner's desire to hire his own Engineer to consider whether the drainage easement should be removed, relocated, etc.

• SCU-1437A (Ed Schardt) Town of Ottawa, Sections 21 and 28

Mr. Mace presented the "Staff Report and Recommendation" dated January 21, 2010, and made a part of these Minutes. He pointed out the location of the property at W370 N4835 Pineview Lane in Sections 21 and 28, Town of Ottawa on the aerial photograph.

Mr. Mace explained the property owner is proposing to reduce the size of the parcel the telecommunication tower and appurtenances are located on. Currently the tower and appurtenances exist on a 71 acre parcel in

conjunction with the existing residence and outbuildings. The proposal is to reduce the size of said parcel to approximately 10 acres which will contain the residence, outbuildings, tower and appurtenances. The 10+ acre property will still be accessed via the 66 foot wide access easement from Pine View Drive. The remnant parcel will have to be combined with lands that have access to a public road. The area leased by US Cellular is accessed by a 30 foot wide access and utility easement. Mr. Goodchild explained that Mr. Schardt's property consists of several parcels that he is trying to sell with no success. He is therefore proposing to reduce the size of the parcel that contains his house and the cell tower, creating a ten acre parcel, and sell that parcel separately from the other parcels. The creation of the parcels will require they be combined into a Certified Survey Map (CSM) to ensure no parcel is landlocked. However, before he spends the money to create the CSM, he wants to make sure he has approval to reduce the acreage the cell tower is located on. The CSM will still need Town and County review for compliance.

After discussion, Mr. Peregrine moved, seconded by Mr. Goodchild, and carried unanimously for approval, as conditioned, in accordance with the "Staff Report and Recommendation". The approval of this request will allow the petitioner a reasonable use of his land and meets the intent and purposes of all County Ordinances.

- **PO-09-OTWT-4 (Ed Schardt) Town of Ottawa, Sections 21 and 28**

Mr. Mace presented the "Staff Report and Recommendation" dated January 21, 2010, and made a part of these Minutes. He stated the request is related to the previous SCU-1437A.

After discussion, Mrs. Morris moved, seconded by Mrs. Haukohl and carried unanimously for approval, as conditioned, in accordance with the "Staff Report and Recommendation". The approval of this request will allow the petitioner a reasonable use of his land and meets the intent and purposes of all County Ordinances.

- **Amend the Regional Water Quality Management Plan Update for the City of New Berlin**

Mr. Mace presented the "Regional Water Quality Management Plan for the City of New Berlin". He stated that the area to be added to the sewer service area is the New Berlin West High School campus, which currently relies upon an onsite sewage disposal system. This amendment may be expected to eliminate the pollutant loadings from the existing onsite system to groundwater. The proposed addition to the sewer service area encompasses about 56 acres and includes the Cleveland Ave. right-of-way between the high school and the currently adopted sewer service area, which satisfies the MMSD requirement that sanitary sewer service area additions be contiguous with the currently adopted sewer service area. The New Berlin West High School campus is essentially developed with school facilities and contains small remnant wetlands encompassing about two acres.

After discussion Mr. Siepmann moved, seconded by Mrs. Haukohl, and carried unanimously for approval, in accordance with the report entitled "Amend the Regional Water Quality Management Plan for the City of New Berlin" dated December 2009.

ADJOURNMENT

With no further business to come before the Commission, Mr. Siepmann moved, seconded by Supervisor Haukohl and carried unanimously to adjourn at 3:15 p.m.

Respectfully submitted,

Bonnie Morris
Secretary

BM:es